IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

THURSDAY, THE 25TH OCTOBER 2007 / 3RD KARTHIKA 1929

Crl.Rev.Pet.No. 702 of 2000

CRL.R.P.18/1997 OF SESSIONS COURT, ALAPPUZHA.

.....

PETITIONER/ CR. PETITIONER/ CR. PETITIONER:

P.J. JOSEPH, PALATHINKAL COIR INDUSTRIES,
PANAVALLY.P.O., VIA. POOCHAKKAL,
CHERTHALA.

BY ADV. SRI.MATHEW JOHN.

RESPONDENT/PETITIONER/PETITIONER:

P. PADMINI AMMA, ARIKKARAN VELIYIL VEEDU,
PANAVALLY.P.O., POOCHAKKAL.VIA.,
CHERTHALA.

BY ADV. SRI.A.S.P.KURUP.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 25/10/2007,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.M.P. NO. 3838/2000 IN CRL.R.P. NO. 702/2000

DISMISSED

25/10/2007. **SD/- J.B.KOSHY, JUDGE.**

//TRUE COPY//

prv.

J.B.KOSHY, J.

Crl.R.P.No.702 OF 2000

Dated 25th October, 2007

ORDER

The respondent approached the Revenue Divisional Officer contending that the revision petitioner blocked their pathway. It is their case that the pathway was being used through the revision petitioner's property from time immemorial to reach the Panchayat road. Even though an interim order was passed by the Revenue Divisional Officer, later it was vacated stating that there is no apprehension of breach of peace. There is no question of interference by the Magistrate under Section 147 of the Code of Criminal Procedure in the absence of apprehension of breach of peace. However, the findings in an order under Section 147 Cr.P.C. will not bind the civil court if a civil case is filed. I am of the opinion that the matter in dispute in this case is purely of a civil nature. Aggrieved party can approach the civil court and civil court shall decide the matter untrammelled by the observations made by the Criminal Court or this court in this case. The civil court's decision will be binding on both sides and since there is no apprehension of breach of peace, order

under Section 147 ought not have been issued in this case. Therefore, leaving the parties to avail civil remedies, the impugned order is set aside.

The revision petition is disposed of accordingly.

J.B.KOSHY
Judge

tks